



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

MAIL STOP ISSUE FEE

Applicants: Tavares, Bruce A.; Coffey, Frederick E. and Rice, Dennis K
Application's Title: ROPE-ON-SPOOL UNCOILER AND GRANULATOR
Serial No. 10/758,052 Filed: 14 January 2004(01/14/04)
Group Art Unit: 1764 Examiner: Ellen M. McAvoy
Docket No.: 4588-00003D

Attention: PETITIONS OFFICER

PETITION TO WITHDRAW HOLDING OF ABANDONMENT
UNDER 37 C.F.R. 1.181(a)

Commissioner for Patents
P. O. Box 1450
Alexandria, VA. 22313-1450

Sir:

A Notice of Abandonment (Exhibit A) was mailed on 7 January 2008 and received today, 11 January 2008. The Notice states that applicants failed "to timely file corrected drawings" (Box 3, checked) and that "no corrected drawing" was received (Box 3(b), checked).

The above-identified patent application was filed 14 January 2004.

A first office action was mailed 21 March 2007, and a timely response was filed on 14 June 2007. A copy of the Office Action Summary, Form PTOL-326 (Exhibit B) which accompanied the office action is enclosed.

Referring to Exhibit B, note that Box 10 is checked. This box states "The drawing(s) filed on 14 January 2004 is/are: a) ☐ **accepted** . . . (emphasis supplied) is checked; and, in view of the drawings having been accepted, as one would expect, the box for "b)" is not checked.

Accordingly, applicants' undersigned attorney placed a "Post-It" sticker on the file with the notation that the drawings were accepted.

When the attorney received the Notice of Allowability, Form PTOL-37 (Exhibit C) mailed on 4 September 2007 along with the Notice of Allowance and Issue Fee(s) Due, he

checked to make sure that all the pending claims had been allowed, and did not look any further as he had no reason to suspect that the drawings were now NOT deemed acceptable.

Assuming he looked further down the form to check if the Examiner had signed it, he must have missed noting the lightly crossed box which stated "CORRECTED DRAWNGS (as "replacement sheets") must be submitted.

Moreover, neither box (a) or (b) under Box 5 was checked, making it even more likely that the checked Box 5 was inadvertently overlooked and missed.

In view of the PTOL-326 not having specified any corrections to the acceptable and accepted drawings, no substitute drawings were prepared.

As a result no corrected drawings were submitted.

Applicant's undersigned attorney spoke to Examiner McAvoy earlier today and brought the foregoing to her attention.

She stated that the drawings were accepted because she deemed them acceptable.

She could not explain why the Box 5 in the Notice of Allowability was checked, more particularly because neither box (a) nor (b) was checked.

A reconsideration of the holding of abandonment should take into account that in view of the clear statement that the filed drawings were accepted, it is abundantly clear that missing the lightly crossed was a forgivable error on the attorney's part, and that the application was never abandoned.

The Notice of abandonment was improvidently deemed abandoned.

It is respectfully requested that this petition be granted.

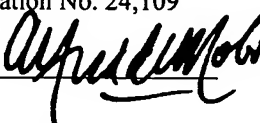
Respectfully submitted,


Alfred D. Lobo (Reg. No. 24,109)

CERTIFICATE UNDER 35 U.S.C. 1.8(a)

I certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 on this 11th day of January 2008.

Alfred D. Lobo
Attorney for Applicant(s)
Registration No. 24,109


Date: _____



JAN 14 2008

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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/758,052	01/14/2004	Bruce Anthony Tavares	4588-00003D	5105

EXAMINER

MCAVOY, ELLEN M

ART UNIT

PAPER NUMBER

1764

MAIL DATE

DELIVERY MODE

01/07/2008

PAPER

7590 01/07/2008
LOBO & CO., L.P.A.
Suite #2
2655 Euclid Hts. Blvd.
Cleveland Hts., OH 44106-2851

Notice of Abandonment

EXHIBIT A

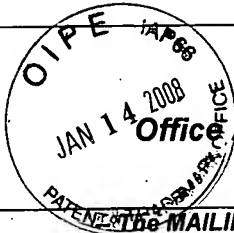
This application is abandoned in view of:

1. ☐ The applicant's failure to timely file a proper reply to the Office letter mailed on _____
 - (a) ☐ A reply was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the period for reply (including a total extension of _____ month(s)) which expired on _____.
 - (b) ☐ A proposed reply was received on _____, but it does not constitute a proper reply under 37 CFR 1.113(a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of:
 - (1) a timely filed amendment which places the application in condition for allowance;
 - (2) a timely filed Notice of Appeal (with appeal fee);
 - (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
 - (c) ☐ A reply was received on _____ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box e below).
 - (d) ☐ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
 - (a) ☐ The issue fee and publication fee, if applicable, was received on _____ (with a Certificate of Mailing or Transmission date _____), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
 - (b) ☐ The submitted fee of \$ _____ is insufficient. A balance of \$ _____ is due.
The issue fee required by 37 CFR 1.18 is \$ _____
The publication fee, if required by 37 CFR 1.18(d), is \$ _____
 - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☒ Applicant's failure to timely file corrected drawings as required by and within the three-month period set in the Notice of Allowability (PTO-37).
 - (a) ☐ Proposed corrected drawings were received on _____ (with a Certificate of Mailing or Transmission dated _____), which is after the expiration of the period for reply.
 - (b) ☒ No corrected drawing have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on _____ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

Petitions to revive under 37 CFR 1.137(a) or (b), or request to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management



Office Action Summary

Application No.

10/758,052

Applicant(s)

TAVARES ET AL.

Examiner

Ellen M. McAvoy

Art Unit

1764

Period for Reply
The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

EXHIBIT B

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 5/10/2004; 8/21/2006
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____
- ☐ Notice of Informal Patent Application
- ☐ Other: ____



Notice of Allowability

Application No.	Applicant(s)	
10/758,052	TAVARES ET AL.	
Examiner	Art Unit	
Ellen M. McAvoy	1764	

— The MAILING DATE of this communication appears on the cover sheet with the correspondence address—

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

- ☒ This communication is responsive to the arguments filed 14 June 2007.
- ☒ The allowed claim(s) is/are 1-9.
- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

EXHIBIT C

a) ☐ All b) ☐ Some* c) ☐ None of the:

- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. _____.
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

- ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 - ☒ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
- ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date 21 August 2006
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material

- ☐ Notice of Informal Patent Application
- ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
- ☐ Examiner's Amendment/Comment
- ☐ Examiner's Statement of Reasons for Allowance
- ☐ Other _____


Ellen M. McAvoy
Primary Examiner
Art Unit: 1764